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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/666,213	09/21/2000	Melissa I. Dopps	WEYC116173	9095

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CHRISTENSEN, O'CONNOR, JOHNSON, KINDNESS, PLLC
1420 FIFTH AVENUE
SUITE 2800
SEATTLE, WA 98101-2347

EXAMINER

STEPHENS, JACQUELINE F

ART UNIT	PAPER NUMBER
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3761

DATE MAILED: 03/22/2004 *17*

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application N .

09/666,213

Applicant(s)

DOPPS ET AL.

Examiner

Jacqueline F. Stephens

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3,5-14,16-35,38 and 41-55 is/are pending in the application.
- 4a) Of the above claim(s) 49-55 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3,5-14,16-35,38 and 41-48 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 2/17/04 has been entered.

Response to Arguments

2. Applicant's arguments regarding the rejection of claims 1, 4-9, 11-13, 20, 24-35, 38, 41, and 45-47, under 35 U.S.C. 102(b) as being anticipated by Ahr USPN 5733273 have been fully considered but they are not persuasive. Applicant argues Ahr does not teach fibrous bands wherein each band is continuous along the composite's length. However, applicant has not defined 'the composite's length' in the claim language, and the independent claims do not require the fibrous bands to run the entire length of the composite. Giving the broadest reasonable interpretation of the independent claims, each individual band, 12, 312, 412(A-D), and 512, runs along the composite length and each individual band is uninterrupted in its length and, therefore each band is continuous along the composite's length.

Applicant's arguments, see pages 10-13 filed 2/17/07, with respect to the rejection(s) of claim(s) 1-3, 5, 6, 9-14, 16-18, 26, 27, 38, 41, and 45-57 under 35 U.S.C. 103(a) as being unpatentable over Fendler USPN 4372312 in view of Kenmochi USPN 5613962 have been fully considered and are persuasive. Applicant argues that the pad described in the (Fendler) reference does not include superabsorbent material, the fluid transfer and wicking properties attributed to the pad would be diminished by the inclusion of superabsorbent material, and there is no motivation to provide Fendler with superabsorbent material. The examiner reviewed the Fendler reference in light of the argument and found the reference teaches the microporous web of the invention is comparable to a sanitary napkin with superabsorbent added (Fendler col. 4, lines 3-40), and agrees with the applicant that there is no motivation to modify the absorbent pad described by the Fendler reference. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Ahr. Arguments regarding claims 28, 42, 43, and 48 were persuasive for the reasons cited above.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 3, 5-9, 11-14, 16-20, 24-35, 38, 41, 42, and 45-47 are rejected under 35 U.S.C. 102(b) as being anticipated by Ahr USPN 5733273.

As to claim 1, Ahr discloses an absorbent composite comprising one or more fibrous bands (12, 312, 412(A-D), 512) in a fibrous base (14, 314, 414, 514). The base comprises a fibrous matrix and superabsorbent material (col. 4, lines 18-34). Each of the bands (12, 312, 412(A-D), and 512) is continuous along the composite's length. The bands are substantially free of superabsorbent material (col. 7, line 64 through col. 8, line 1).

As to claim 3, see Figures 2-4 elements 12, 312, and 412 (A-D).

As to claim 5, Ahr discloses the fibrous matrix comprises fibers from the group consisting of resilient fiber, matrix fibers, and mixtures thereof (col. 4, lines 18-31).

As to claim 6, Ahr discloses the resilient fibers are chemically stiffened fibers or synthetic fibers (col. 4, lines 18-31).

As to claim 7, Ahr discloses the chemically stiffened fibers comprise crosslinked cellulosic fibers. See col. 4, lines 18-34 where Ahr incorporates by reference Herron USPN 5183707 (Abstract and col. 4, lines 63-66), which discloses crosslinked cellulose fibers for use in the matrix fibers.

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As to claim 8, Ahr incorporates by reference Herron who discloses crosslinked cellulosic fibers crosslinked with a polycarboxylic acid crosslinking agent (Ahr col. 4, lines 18-34 and Herron col. 4, lines 63-66).

As to claim 9, Ahr discloses the synthetic fibers include polyester, polypropylene, nylon, or copolymers thereof (col. 4, lines 18-34).

As to claim 11, Ahr discloses the matrix fibers comprise cellulosic fibers (col. 4, lines 18-21).

As to claim 12, Ahr discloses cellulosic fibers from the claimed group of materials (col. 4, lines 18-21).

As to claims 13, 14, 34 and 35, Ahr discloses the absorbent strips can comprise between about 5 to about 75 % by weight of the composite (col. 5, lines 33-35), which means the fibrous medium is 25-95% by weight of the total composite. Ahr discloses superabsorbent may be present in the fibrous medium in an amount between 4% and 70% (see the rejection of claims 17 and 18 below). Therefore the fibrous material (matrix or resilient) is present in the composite in amount between .08 and 91% by weight of the total composite.

As to claim 16, Ahr discloses the superabsorbent material in the fibrous matrix is selected from superabsorbent particles (col. 8, lines 6-13).

As to claims 17, and 18, Ahr discloses the basis weight of the fibrous medium is between about .05-.25 grams per square inch (col. 2, lines 65-67). Ahr further discloses the basis weight of the superabsorbent in the fibrous medium is can range between 0.01 – 0.07 grams per square inch (col. 8, lines 16-21). Therefore, based on the calculations of the basis weight of the superabsorbent in the fibrous medium to the total basis weight of the fibrous medium, the superabsorbent is present in the composite (as it relates to the fibrous medium) in a range between about 4% to about 70%.

As to claim 19, Ahr discloses superabsorbent material is present in the fibrous medium (col. 8, lines 16-21). It is old and well known in the art that superabsorbent material is capable of absorbing up to 10 and even 100 times its weight in saline solution.

As to claim 20, the composite comprises a wet strength agent (col. 4, lines 34-41).

As to claims 24 and 25, Ahr discloses the density and basis weights within the claimed ranges (col. 2, lines 51 through col. 3, line 3).

As to claims 26-33, Ahr discloses the fibrous bands comprise fibers selected from the group of claimed materials (col. 4, lines 34-64 and Herron '707 col. 4, lines 35-66).

As to claim 38, Ahr discloses an absorbent article, such as a feminine care product or diaper (Abstract) comprising an absorbent composite comprising one or more fibrous bands (12, 312, 412(A-D), 512) in a fibrous base (14, 314, 414, 514). The base comprises a fibrous matrix and superabsorbent material (col. 4-, lines 18-34). Each of the bands (12, 312, 412(A-D), and 512) is continuous along the composite's length. The bands are substantially free of superabsorbent material (col. 7, line 64 through col. 8, line 1).

As to claims 41, 45, and 46, Ahr discloses an absorbent article, such as a feminine care product or diaper (Abstract), comprising:

a liquid pervious facing sheet,

a storage layer (10, 310, 410, 510, Figures 1-5) comprising an absorbent composite comprising one or more fibrous bands (12, 312, 412(A-D), 512) in a fibrous base (14, 314, 414, 514). The base comprises a fibrous matrix and superabsorbent material (col. 4-, lines 18-34). Each of the bands (12, 312, 412(A-D), and 512) is continuous along the composite's length. The bands are substantially free of superabsorbent material (col. 7, line 64 through col. 8, line 1),

and a liquid impervious backing sheet joined to the topsheet (Figure 1, col. 8, lines 40-43).

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As to claims 42 and 47, Ahr discloses an absorbent article, such as a feminine care product or diaper (Abstract), comprising:

a liquid pervious facing sheet;

an acquisition layer for rapidly acquiring and distributing liquid (col. 5, lines 62 through col. 6, line 19)

a storage layer (10, 310, 410, 510, Figures 1-5) comprising an absorbent composite comprising one or more fibrous bands (12, 312, 412(A-D), 512) in a fibrous base (14, 314, 414, 514). The base comprises a fibrous matrix and superabsorbent material (col. 4-, lines 18-34). Each of the bands (12, 312, 412(A-D), and 512) is continuous along the composite's length. The bands are substantially free of superabsorbent material (col. 7, line 64 through col. 8, line 1),

and a liquid impervious backing sheet joined to the topsheet (Figure 1, col. 8, lines 40-43).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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6. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

7. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ahr in view of Anderson et al. USPN 4100324. Ahr discloses the claimed invention except for Ahr does not disclose the polyester fibers are polyethylene terephthalate fibers. Ahr discloses polyester, polypropylene, nylon (polyamide) or copolymers thereof are appropriate for his invention. Anderson shows that polyethylene terephthalate is an equivalent composition known in the art for use in a fibrous matrix (Anderson et al. USPN 4100324, which discloses at col. 7, lines 59-66). Therefore, because these two fibers were art-recognized equivalents at the time the invention was made, one of ordinary skill in the art would have found it obvious to substitute polyethylene terephthalate for polypropylene or nylon (polyamide) or other polyesters.

8. Claims 21-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ahr in view of Chan EP 0515750.

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As to claim 21, Ahr discloses the present invention substantially as claimed. However, Ahr does not disclose the wet strength agent is selected from polyamide-epichlorohydrin or polyacrylamide resins. Chan discloses a polyamide-epichlorohydrin wet strength resin for use in providing paper with resistance to rupture or disintegration. Chan discloses the polyamide-epichlorohydrin wet strength resin comprises reduced amount of organic-chlorine contaminants yet retains its wet strength properties. Additionally Chan discloses the polyamide-epichlorohydrin wet strength resin does not increase the stiffness of the absorbent medium or reduce its water absorbency as compared to other types of resins (page 2, lines 1-22). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the wet strength resin of Ahr with the polyamide-epichlorohydrin wet strength resin for the benefits disclosed in Chan.

As to claim 22, Ahr/Chan disclose the wet strength resin can be added to an absorbent medium in an amount of 0.1-2% by weight of the absorbent medium ('750 page 6, lines 49-58).

As to claim 23, Ahr/Chan does not specifically disclose a wet strength agent present in the composite in about 0.25% by weight of the total composite. However, Chan recognizes the percentage can be varied and this will affect the wet strength of the absorbent medium. Chan, therefore recognizes the wet strength is a result effective variable of percentage of wet strength agent added to the absorbent medium. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the article of Ahr/Chan with the claimed 0.25% add-on of wet strength agent,

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since discovering an optimum value of a result effective variable involves only routine skill in the art.

9. Claims 43 and 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ahr in view of DiPalma et al USPN 5649916.

As to claim 43, Ahr discloses the present invention substantially as claimed. However, Ahr fails to disclose the absorbent article comprises an intermediate layer interposed between the acquisition layer and the storage layer. DiPalma discloses an absorbent article comprising an intermediate layer 20 interposed between the acquisition layer 18 and the storage layer 24 for the benefit of rapidly wicking fluids and providing increased resiliency ('916 col. 5, line 59 through col. 6, line 26). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the invention of Ahr to include an intermediate layer interposed between the acquisition layer and the storage layer for the benefits disclosed in DiPalma.

As to claim 44, the intermediate layer of Ahr/DiPalma is a distribution layer in that the layer functions to wick fluids (DiPalma col. 5, lines 59-64).

10. Claim 48 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ahr in view of Karami USPN 457989. Ahr discloses the present invention substantially as claimed. However, Ahr fails to disclose the absorbent article comprises leg gathers. Karami discloses an absorbent article comprising leg gathers. It would have been

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obvious to one having ordinary skill in the art at the time the invention was made to modify the invention of Ahr to include leg gathers. Doing so would provide prevention of diaper leakage and discomfort, which Karami teaches is desired (Figure 1 and col. 1, lines 45-68).

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Chen USPN 5436066 is cited to show superabsorbent materials are generally capable of absorbing an amount of synthetic urine, a 0.9 weight percent saline solution, at least about 10 and up to about 100 times the weight of the superabsorbent material (Chen col. 2, lines 63-68).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jacqueline F Stephens whose telephone number is (703) 308-8320. The examiner can normally be reached on Monday-Friday 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Calvert can be reached on (703)305-1025. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jacqueline F Stephens
Examiner
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A handwritten signature in black ink, appearing to be 'JF Stephens', written over the printed name.

March 7, 2004